

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

MAR - 6 2018

DEVINCHE JAVON ALBRITTON, #317524,

Petitioner,

v.

CIVIL ACTION NO. 2:16cv737

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Petitioner, a Virginia inmate, submitted a *pro se* petition, pursuant to 28 U.S.C. § 2254. ECF No. 1. The Petition alleges violations of federal rights pertaining to Petitioner's convictions in the Circuit Court for the City of Virginia Beach for Rape and Abduction with Intent to Defile. As a result of the convictions, Petitioner was sentenced on May 1, 2013, to serve a total term of life imprisonment and 30 years in the Virginia penal system.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge's Report and Recommendation filed February 1, 2018, recommends dismissal of the Petition with prejudice. ECF No. 20. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. On February 20, 2018, the Petitioner untimely filed objections to the Report and Recommendation. ECF No. 21. The Respondent has not responded to the Petitioner's objections and the time to do so has expired.

The Court, having reviewed the record and examined the objections filed by Petitioner to

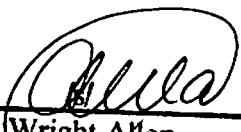
the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed February 1, 2018. It is, therefore, **ORDERED** that the Respondent's Motion to Dismiss, ECF No. 8, be **GRANTED**, and that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITH PREJUDICE**. It is further **ORDERED** that judgment be entered in favor of Respondent. Petitioner's Motion to Reconsider, ECF No. 18, is **DENIED** as Moot.

Petitioner is hereby notified that he may appeal from the judgment entered pursuant to this Final Order by filing a *written* notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and counsel of record for Respondent.

It is so ORDERED.



Arenda L. Wright Allen
United States District Judge

ARENDA L. WRIGHT ALLEN
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
March 5, 2018